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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re JERRY P., et al., Persons Coming
Under the Juvenile Court Law.

B259022
(Los Angeles County Super. Ct.
No. CK91321)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

JESSICA G.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of the County of Los Angeles,
Marguerite Downing, Judge. Dismissed.

Judy Weissberg-Ortiz, under appointment by the Court of Appeal, for Defendant
and Appellant.

Mark J. Saladino, County Counsel, Dawyn R. Harrison, Assistant County Counsel,
Jessica S. Mitchell, Deputy County Counsel, for Plaintiff and Respondent.

Jessica G. (mother) appeals from a portion of the judgment declaring her sons Jerry P. and Ronnie P. dependents of the court under Welfare and Institutions Code section 300.¹ Mother contends there is no substantial evidence to support the dependency court's jurisdictional findings, as to mother, that Jerry and Ronnie were minors described by section 300, subdivisions (b) and (j). Mother does not contest the jurisdictional findings as to father, but she contends this appellate court should exercise its discretion to decide her jurisdictional challenges because she was substantially prejudiced by the findings. We conclude that mother has not demonstrated any prejudice, and therefore, mother's contentions are nonjusticiable. We dismiss the appeal.

FACTS AND PROCEDURAL BACKGROUND

Prior Dependency Proceedings

Mother and Jose M. had daughter Crystal M. in October 2008. Jose hit mother at least once, and in 2009, he hit her while she was holding Crystal. Mother gave birth to Jessy G. in February 2010. Jose is also Jessy's father, but mother and Jose were no longer living together. Mother obtained a restraining order against Jose.

In 2011, mother was in a relationship with Maximiliano P. On December 30, 2011, mother's sister told Maximiliano that mother was cheating on him with Luis Rodriguez. Upon hearing this, Maximiliano hit mother, bruising her face. Mother left and called Rodriguez. Rodriguez picked up mother and they drove to her mother's house to get the girls. As they were driving to a hotel with the girls, the police stopped them. Mother's sister had reported to police that Rodriguez stabbed her and stole her car. Mother had methamphetamine in her sock. Rodriguez was arrested for carjacking and

¹ All statutory references are to the Welfare and Institutions Code, unless otherwise stated.

mother was arrested for possession of methamphetamine. Mother was a user of methamphetamine and marijuana.

A dependency petition was filed in January 2012. The court made several preliminary orders, including an order that Maximiliano have no contact with the girls pending further order of the court. Mother signed a waiver of rights and submitted to the petition on the basis of the social worker's report and other documents. At the adjudication hearing on March 5, 2012, the court declared the girls to be dependents of the court pursuant to section 300, subdivision (b). The court ordered them removed from their parents' custody and suitably placed. Mother was ordered to participate in a domestic violence program for victims, a parenting course, individual counseling, a drug and alcohol program, random drug and alcohol testing, a 12-step program, and unmonitored day visits that the Los Angeles County Department of Children and Family Services (Department) had discretion to liberalize.

On mother's first visit with the children, which the foster parent monitored, she had a bruise on her face. She later told the foster parent that Rodriguez gave her the bruise. When mother began unmonitored visits, she sometimes took the children to their maternal grandmother's house and sometimes to Rodriguez's house. On May 20, 2012, she cancelled a visit with her children due to a black eye. She told the foster parent that she got the bruise from Rodriguez. Jose said mother continued to call him, despite an active restraining order. In a June 7, 2012 report to the court concerning these events, the Department recommended changing the visitation order to monitored visits. The recommendation reflected in part, "Although mother is participating in an outpatient substance abuse program, domestic violence awareness program, and completed her parenting education classes, and has received positive reports from services providers, her actions state[] she has [not] yet learned or benefitted from treatment as she continues to engage in domestic violence and [violate] a restraining order set in place to protect her." The court ordered mother's visits not to be liberalized.

Mother completed the programs ordered by the court, and social workers found she was meeting the girls' needs. Mother became pregnant, but was not truthful with the

social worker assigned to the case until Crystal said her mother was lying. In March 2013, mother asked a social worker about the consequences of pregnancy. She said she would be giving birth to a boy within a few weeks. She stated that the baby's father was not Jose or Rodriguez. She declined to name the father, but said he had been deported. The social worker said the baby would not be part of the dependency case unless there were concerns for the baby. The court granted mother an extended visit with the girls on the condition that she continue to reside in the maternal grandmother's home. All prior orders remained in full force and effect. Jerry was born on March 19, 2013. His father is Maximiliano.

On April 23, 2013, based on the recommendations of the Department, the court found mother was in compliance with the case plan and ordered the girls placed in mother's home under the Department supervision with additional family preservation services. In September 2013, mother and the girls moved out of the grandmother's home. During monthly home visits, mother's home was clean and organized, and mother was ensuring the girls' medical, dental, educational, and emotional needs were met. Mother's drug test results were negative on five dates in the fall and winter of 2013, but mother missed three test dates. Although she missed test dates, she was not observed or heard to be under the influence of drugs or alcohol. In November 2013, she was counseled not to miss tests unless it was an emergency.

At the end of January 2014, a social worker made an unannounced visit to mother's home and saw men's work boots in the living room closet. Mother lied about the boots. Mother was pregnant again and lied about visiting Jerry's father in Mexico. The social worker had previously told mother that if Jerry's father returned to the United States while the dependency case was open, he would need to complete a background review before having significant contact with the girls. Mother said that she planned to marry the father, but denied he was living in her home. Mother and the girls were continuing to adjust well, and Crystal's report card from school was good. Jose had not visited the girls since October 2012, when they were in foster care. Mother said in November 2013, Jose saw mother with the children in her neighborhood, brandished a

gun at her, and warned her not to hit the girls. On February 4, 2014, the Department recommended three additional months of supervision and services due to concerns that mother was withholding important information. The court ordered additional supervision and services.

On February 21, 2014, after conferring with others, the social worker submitted a last minute information statement to the court stating that the Department would be seeking a removal order for all of the children. The social worker believed the children were at risk of future harm, danger or neglect given mother's history of poor choices in men, domestic violence with former companions, including the recent incident with Jose, and withholding important information about life changing events, including pregnancies and possibly housing Jerry's father. In addition, mother had a past history of drug use and poor reasons for missing drug tests.

A few days later, the social worker interviewed Crystal at school in an empty classroom. Crystal said Maximiliano, who she referred to as her and Jerry's Papi, used to live in their house, but mother got mad and threw him out with his clothes around Halloween. Since Thanksgiving, Maximiliano slept at their house almost every night.

During the social worker's unannounced visit to the home in March 2014, there was no men's clothing in the house. Mother gave birth to Ronnie in March 2014. Maximiliano is his father.

On April 27, 2014, the social worker made an unannounced visit at 9:30 p.m. With the screen door locked, but the inner door open, the social worker saw the home was quiet and dark with a television set on. Four-year-old Jessy came to the door and said mother was not home. She had gone to the store with Crystal and Jerry. The social worker asked who was caring for her. Jessy said her Papi, who was sleeping on the couch. Jessy shook him to wake him up. Maximiliano allowed the social worker into the home. He said that he was not living at the home, but simply caring for the kids while mother was at the store. He said the baby was sleeping in the bedroom. The social worker found Ronnie asleep on a full size bed and not in the crib beside the bed. When

mother called the social worker later that night, she was crying. She said Maximiliano had arrived from Mexico a few days before, but she had no documentation to prove this.

On April 30, 2014, the social worker asked mother and Maximiliano to submit to drug testing. They agreed. Mother's test was negative for drugs, but Maximiliano tested positive for marijuana.

Current Proceedings

The children were detained in foster care on June 2, 2014. On June 5, 2014, the Department filed a dependency petition as to Jerry and Ronnie. The petition alleged in count b-1, that pursuant to section 300, subdivision (b), Maximiliano had a history of illicit drug use and currently abused marijuana, which rendered him incapable of providing regular care for the children. On prior occasions in 2014, he was under the influence of illicit drugs while the children were in his care and supervision. On April 30, 2014, he had a positive toxicology screen for marijuana. The illicit drug use by Maximiliano endangers the children's physical health and safety and places them at risk of physical harm, damage, and danger.

The petition also alleged in identical counts b-2 and j-1 that mother and Maximiliano have a history of engaging in violent altercations. On a prior occasion, Maximiliano struck mother's face, inflicting bruising. Mother failed to protect the children by allowing Maximiliano to frequent the children's home and have unlimited access to the children. The children's siblings are dependents of the court due to Maximiliano's violent conduct against mother. Such violent conduct on the part of the father against the mother and the mother's failure to protect the children endangers the children's physical health and safety and places the children at risk of physical harm, damage, and danger.

The Department also filed a supplemental petition as to the girls. The petition alleged that mother placed them in an endangering situation by continuing to have

contact with Maximiliano, who struck mother's face on a prior occasion, and allowing Maximiliano to frequent the children's home and have unlimited access to the children.

The court ordered the children detained. The court allowed both mother and Maximiliano monitored visitation with all of the children. In an interim report on June 16, 2014, the Department noted Maximiliano had enrolled in domestic violence classes and in an outpatient drug program. The drug treatment provider said Maximiliano took a drug test on the day of enrollment. He had a slight positive for marijuana, but the result indicated the marijuana was coming out of his system. Based on the information, the court ordered the children to continue to be detained in shelter care pending the next hearing.

The Department filed a jurisdiction and disposition report on July 7, 2014, as to both petitions. Crystal told the social worker that Maximiliano lived in the home for a long time and never resided in Mexico. Mother denied any incident of domestic violence having occurred with Maximiliano, but she admitted he was residing in the home when the social worker visited on April 27, 2014. Maximiliano does not believe there was any domestic violence and it was not correct to take his children away on this basis. However, he admitted the Department's intervention for prevention of harm was correct and he understood it was necessary to improve their parenting skills. He stated the Department was correct to intervene due to his use of marijuana. The court ordered the children remain detained in shelter care pending the next hearing.

On July 27, 2014, mother lost her apartment. After her children were removed, she no longer received money from Cal-Works and did not have a job. She moved in with Maximiliano's mother and Maximiliano. The Department was not able to provide funds to mother, because mother did not have custody of the children. On August 1, 2014, mother and Maximiliano married.

In September 2014, the Department reported mother completed a parenting program, approximately half of the sessions in a domestic violence program, and sessions of individual counseling. Father completed a parenting program, a drug education program, and a domestic violence program. Their unmonitored day visits with the

children were going very well. The Department recommended further liberalization of visits after they moved to an appropriate home.

On September 16, 2014, the court sustained count b-1 and the identical counts b-2 and j-1 as to the boys. The court also sustained the count alleged in the supplemental petition as to the girls. The court declared Jerry and Ronnie to be dependent children of the court, and the girls remained dependent children of the court. The court ordered all four children removed from mother's custody and suitably placed. The court ordered family reunification services for the parents and children. Mother's prior case plan was to remain in full force and effect, including a support group for victims of domestic violence, parenting education, and individual counseling, except she was not required to enroll again in drug programs and testing. The court allowed visitation with discretion to liberalize. Mother filed a notice of appeal from the court's findings.

DISCUSSION

Mother contends there is no substantial evidence to support the jurisdictional findings, as to her, that Jerry and Ronnie were persons described by section 300, subdivisions (b) and (j), based on the identical counts b-2 and j-1. She has not challenged the jurisdictional finding as to father based on count b-1. She contends this appellate court should consider her challenge, however, because she was substantially prejudiced by the improper findings. We find no showing of prejudice.

“When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court's jurisdiction, a reviewing court can affirm the juvenile court's finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence. [Citations.]” (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.)

“[I]t is necessary only for the court to find that one parent’s conduct has created circumstances triggering section 300 for the court to assert jurisdiction over the child. [Citations.] Once the child is found to be endangered in the manner described by one of the subdivisions of section 300[,] the child comes within the court’s jurisdiction, even if the child was not in the physical custody of one or both parents at the time the jurisdictional events occurred. [Citation.] For jurisdictional purposes, it is irrelevant which parent created those circumstances. A jurisdictional finding involving the conduct of a particular parent is not necessary for the court to enter orders binding on that parent, once dependency jurisdiction has been established. [Citation.] As a result, it is commonly said that a jurisdictional finding involving one parent is “‘good against both. More accurately, the minor is a dependent if the actions of either parent bring [the minor] within one of the statutory definitions of a dependent.’” [Citation.] For this reason, an appellate court may decline to address the evidentiary support for any remaining jurisdictional findings once a single finding has been found to be supported by the evidence. (E.g., *In re Alexis E.* [, *supra*,] 171 Cal.App.4th [at p.] 451 [addressing remaining findings only ‘[f]or [f]ather’s benefit’]; *In re Joshua G.* [(2005)] 129 Cal.App.4th [189,] 202 [when a jurisdictional allegation involving one parent is found supported, it is ‘irrelevant’ whether remaining allegations are supported]; *In re Shelley J.* (1998) 68 Cal.App.4th 322, 330 [declining to address remaining allegations after one allegation found supported]; *Randi R. v. Superior Court* (1998) 64 Cal.App.4th 67, 72 [same].)” (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1491-1492.)

When “issues raised in [an] appeal present no genuine challenge to the court’s assumption of dependency jurisdiction[,] any order we enter will have no practical impact on the pending dependency proceeding, thereby precluding a grant of effective relief. For that reason, we find [such an] appeal to be nonjusticiable.” (*In re I.A.*, *supra*, 201 Cal.App.4th at p. 1491.) “The many aspects of the justiciability doctrine in California were summarized in *Wilson v. L.A. County Civil Service Com.* (1952) 112 Cal.App.2d 450: “‘A judicial tribunal ordinarily may consider and determine only an existing controversy, and not a moot question or abstract proposition [A]s a general rule it is

not within the function of the court to act upon or decide a moot question or speculative, theoretical or abstract question or proposition, or a purely academic question, or to give an advisory opinion on such a question or proposition” (*Id.* at pp. 452-453.) An important requirement for justiciability is the availability of ‘effective’ relief—that is, the prospect of a remedy that can have a practical, tangible impact on the parties’ conduct or legal status. “““It is this court’s duty ““to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it.”””” [Citations.]” (*In re I.A., supra*, at p. 1490.)

The juvenile court found that it had jurisdiction over Jerry and Ronnie based on the sustained allegations of substance abuse and domestic violence with respect to Maximiliano. Mother does not challenge the substance abuse findings, nor is Maximiliano a party to this appeal. Mother’s appeal therefore is nonjusticiable. (*In re I.A., supra*, 201 Cal.App.4th at p. 1491.)

Mother asks us to consider her appellate contentions because the jurisdictional findings could affect her in the future. However, she does not “identify any specific potential impact, and we can find none on our own.” (*In re I.A., supra*, 201 Cal.App.4th at pp. 1493-1494.) She was awarded visitation and reunification services, and nothing in the juvenile court’s order or the dependency statutory scheme prevents mother from seeking and obtaining custody of the boys.

We note that the incident of domestic violence between mother and Maximiliano was alleged in the dependency petition on behalf of the girls, to which mother submitted a waiver of rights form. The juvenile court ordered that Maximiliano have no contact with the girls based on this incident. Mother violated the court’s order by allowing contact. Maximiliano had not participated in a treatment program to address domestic violence, and based on the parents’ history, there was a current risk of harm to the children due to the parents engaging in a violent altercation. There was evidence to support the jurisdictional findings.

DISPOSITION

The appeal is dismissed.

KRIEGLER, J.

We concur:

TURNER, P. J.

MOSK, J.